

Summary of Post-Employment Restrictions

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the General Counsel
Ethics Division



Current employees who have begun seeking or negotiating for subsequent non-federal employment must recuse immediately from participation in any official matter that involves the prospective employer as an identified party, such as a grant, contract, audit, or investigation. The recusal also must extend to any particular matter of general applicability that affects the discrete industry, economic sector, or other defined class of organizations in which the prospective employer operates, such as a legislative initiative, regulatory proposal, or policy determination that affects the prospective employer as a member of such class. See 5 C.F.R. Part 2635, Subpart F. Former employees are subject to the provisions described below. Certain exceptions, not discussed in this document, may apply in limited circumstances. Additional restrictions apply to government attorneys who are subject to State Codes of Professional Responsibility. SF 278 filers are required to submit a termination Public Financial Disclosure Report within 30 days after departure. Please contact your Deputy Ethics Counselor or the OGC Ethics Division at (202) 690-7258 for further information.

Restrictions Applicable to All Employees

18 US Code 207(a)(1) Permanent Ban on "Switching Sides."

Former employees are subject to a lifetime ban on communicating to or appearing before the Government on behalf of their new employer or anyone else regarding specific party matters in which they participated personally and substantially during their entire government service.

18 US Code 207(a)(2) Two-Year Official Responsibility Provision.

For two years after termination of their federal employment, former employees may not make representational communications to or appearances before the Government regarding specific party matters that were pending under their official responsibility during their last year of government service.

18 US Code 207(b) One-Year Ban on Trade or Treaty Negotiation Activities.

Former employees who participated in ongoing trade or treaty negotiations on behalf of the United States within the year preceding their departure cannot, for one year, represent, aid, or advise anyone based on information exempt from disclosure to which the employees had access.

18 US Code 203 Compensation Limitation. Former federal employees may not share in any bonus, profit sharing, or similar compensation derived from fees earned by the employee's new firm or partnership for representational services before the Government that were rendered during the former employee's period of government service.

41 US Code 423(a) Disclosure of Procurement Information.

Former employees may not knowingly disclose contractor bid or proposal information or source selection information to anyone not authorized to receive such information.

41 US Code 423(d) One-Year Ban on Contractor Compensation.

Employees who worked on a contract in excess of 10 million dollars cannot receive compensation from that contractor within one year after the employee: (1) served as a contracting officer, member of a source selection board, or chief of a technical evaluation team; (2) served as a program manager, deputy program manager, or administrative contracting officer; or (3) personally made certain decisions such as approving an award, modification, task or delivery order, establishing overhead, or settling a claim.

Restrictions Applicable Only to "Senior Employees"

(PAS Levels II through V; SES Levels ES-5 and 6; Uniformed Service Pay Grades O-7 or above; and other Annual Basic Pay Rates at or above \$130,000)

18 US Code 207(c) One-Year "Cooling-Off" Period. Former "senior" employees may not, for one year after completing their government service, knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of their former agency on behalf of anyone seeking official action. Except for PAS officials, who are prohibited from contacting the entire Department, "former agency" means the OPDIV where the employee worked (or OS, if employed in a STAFFDIV or the PSC).

The restrictions in 18 US Code 207(c) do not apply to acts done in carrying out official duties as an employee of and on behalf of: (1) a state or local government, or an agency or instrumentality thereof; (2) an accredited, degree granting institution of higher education; or (3) a non-profit hospital or medical research organization. Other exceptions may apply for certain types of testimony, statements of special knowledge, and scientific or technological information, and for certain contacts made on behalf of international organizations or political campaign organizations.

18 US Code 207(f) One-Year Foreign Entity Provision. Former "senior" employees may not, for one year following the completion of their government service, knowingly represent, aid or advise a foreign entity with the intent to influence government officials.

FIVE-YEAR "NO CONTACT" PLEDGE AND LIFETIME BAR ON FOREIGN AGENT ACTIVITIES REVOKED.

Non-career "senior" officials in the Clinton Administration signed a "pledge" under E.O. 12834 that extended the one-year "cooling-off" period to five years and imposed a lifetime bar on lobbying on behalf of a foreign government or foreign political party or performing other foreign agent services. These provisions were revoked by E.O. 13184, effective January 20, 2001. Senior political appointees were released retroactively from their commitments under the pledge, but they remain subject to applicable statutory requirements.